

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

SolarCity Corporation,

Plaintiff,

v.

Salt River Project Agricultural
Improvement and Power District, et al.,

Defendants.

No. CV-15-00374-PHX-DLR

**STIPULATED PROTECTIVE
ORDER**

The Court, having reviewed the Parties' Stipulation for Entry of a Protective Order, (Doc. 50), and good cause appearing, hereby enters the following Protective Order pursuant to Federal Rule of Civil Procedure 26(c):

1. This Protective Order shall be applicable to and govern all depositions, documents, information or things produced by a Party or third party in connection with this litigation in response to requests for production of documents, requests for inspections of things, answers to interrogatories, responses to requests for admissions, answers to deposition questions and all other discovery taken pursuant to the Federal Rules of Civil Procedure (hereinafter, "Discovery Material") that the Designating Party designates as "Confidential Information" or "Highly Confidential Information – Attorneys' Eyes Only." A Party (or, if applicable, non-party) designating Discovery Material as "Confidential Information" or "Highly Confidential Information – Attorneys'

1 Eyes Only” shall be referred to for purposes of this Protective Order as the “Designating
2 Party.”

3 2. Any Party (or, if applicable, non-party) receiving Discovery Material
4 designated as “Confidential Information” or “Highly Confidential Information –
5 Attorneys’ Eyes Only” shall be referred to for purposes of this Protective Order as the
6 “Receiving Party.” Counsel for any Designating Party (or a Designating Party itself, if
7 unrepresented) may designate any Discovery Material as “Confidential Information” or
8 “Highly Confidential Information - Attorneys’ Eyes Only” under the terms of this
9 Protective Order only if such counsel or party in good faith believes that such Discovery
10 Material contains such information and is subject to protection under Federal Rule of
11 Civil Procedure 26(c). The designation by any Designating Party of any Discovery
12 Material as “Confidential Information” or “Highly Confidential Information –
13 Attorneys’ Eyes Only” shall constitute a representation that the Designating Party or its
14 counsel reasonably believes there is a valid basis for such designation.
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16 3. For purposes of this Protective Order, “Confidential Information” shall
17 include all non-public information or matter related to: financial or business plans or
18 projections; acquisition offers or expressions of interest; proposed strategic transactions
19 or other business combinations; compensation plans; proprietary technical information
20 and specifications; current or future business and marketing information, plans, and
21 strategies; studies or analyses by internal or outside experts; customer information, data
22 or lists; confidential financial data or results; tax data; confidential information regarding
23 assets and liabilities; valuation analyses; competitive analyses; confidential personnel
24 information; personal financial information; personal information subject to protection
25 under California or Arizona or other applicable law; critical infrastructure information,
26 critical energy infrastructure information, information subject to the critical
27 infrastructure reliability protection standards; or other commercially or personally
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1 sensitive or proprietary information. Notwithstanding the foregoing, Confidential
2 Information shall not mean information or documents produced or disclosed that are or
3 become, without violating this Protective Order, and apart from production or disclosure
4 in connection with this action, a matter of public record, publicly available by law or
5 otherwise, or voluntarily disclosed to a third party without a contractual or fiduciary duty
6 of confidentiality.

7 4. For purposes of this Protective Order, “Highly Confidential Information”
8 shall include only extremely sensitive, highly confidential, non-public information,
9 consisting either of trade secrets or other highly confidential information directly
10 concerning current or future business plans, strategies, or costs, the disclosure of which
11 to the Receiving Parties or non-parties (other than the Designating Party) would be likely
12 to cause significant competitive or business injury to the Designating Party (other than
13 injury to the Designating Party’s position in this Action). Highly Confidential
14 Information shall be designated as “Highly Confidential Information – Attorneys’ Eyes
15 Only” or “Highly Confidential Information – AEO” and the use and disclosure of such
16 information shall be restricted as set forth below. Notwithstanding the foregoing, Highly
17 Confidential Information shall not mean information or documents produced or
18 disclosed that are or become, without violating this Protective Order, and apart from
19 production or disclosure in connection with this action, a matter of public record,
20 publicly available by law or otherwise, or voluntarily disclosed to a third party without a
21 contractual or fiduciary duty of confidentiality.

22 5. Any Discovery Material designated as “Confidential Information” or
23 “Highly Confidential Information – Attorneys’ Eyes Only,” whether such information is
24 provided orally or by a document or in electronic form, shall be maintained as set forth
25 in the Protective Order, and shall not be used or disclosed to any person or entity, except
26 as permitted in the Protective Order.
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1 6. All Discovery Material, whether or not filed or lodged with the Court, that
2 a Designating Party contends constitutes “Confidential Information” or “Highly
3 Confidential Information” shall be designated by the Designating Party as follows:

4 a. Documents or other tangible Discovery Material shall, at the time of
5 their production, be designated by stamping or labeling the same with the legend
6 “Confidential Information” or “Highly Confidential Information – Attorneys’ Eyes
7 Only” on each page of a document or material containing such information.

8 b. Deposition testimony shall be designated “Confidential
9 Information” or “Highly Confidential Information - Attorneys’ Eyes Only” (i) at the
10 taking of the deposition by a statement on the record, by counsel at the time of such
11 disclosure, or (ii) by written notice sent to counsel of record for all Parties within ten
12 (10) business days after receiving a copy of the final, hard copy transcript thereof,
13 identifying the specific pages thereof designated as “Confidential Information” or
14 “Highly Confidential Information - Attorneys’ Eyes Only.” In both of the foregoing
15 instances, counsel for the Designating Party shall direct that the legend “Confidential
16 Information” or “Highly Confidential Information - Attorneys’ Eyes Only” be affixed to
17 the portions of the original and all copies of the transcript. Counsel shall treat deposition
18 transcripts as “Highly Confidential Information - Attorneys’ Eyes Only” in their entirety
19 until the relevant period for the designation has expired. The Parties may modify this
20 procedure for any particular deposition through agreement on the record at such
21 depositions without further order of the Court.

22 c. Non-documentary and non-testimonial material, such as oral
23 statements, shall be designated as “Confidential Information” or “Highly Confidential
24 Information - Attorneys’ Eyes Only” at the time of disclosure and promptly confirmed in
25 writing.
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27 7. Inadvertent failure to designate Discovery Material as “Confidential
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1 Information” or “Highly Confidential Information - Attorneys’ Eyes Only” shall not
2 constitute a waiver of such claim and may be corrected by prompt written notice
3 designating such Discovery Material as “Confidential Information” or “Highly
4 Confidential Information - Attorneys’ Eyes Only” in a manner consistent with Paragraph
5 6. The Party or non-party receiving such written notice shall thereafter mark and treat
6 materials so designated as “Confidential Information” or “Highly Confidential
7 Information - Attorneys’ Eyes Only” as the case may be, and such materials shall be
8 fully subject to this Protective Order as if they had been initially so designated. A
9 person disclosing Discovery Material that is subsequently designated as “Confidential
10 Information” or “Highly Confidential Information - Attorneys’ Eyes Only” shall in good
11 faith assist the Designating Party in retrieving such Discovery Material from all
12 recipients not entitled to receive such Discovery Material under the terms of this
13 Protective Order and prevent further disclosures except as authorized under the terms of
14 this Protective Order.

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16 8. Except as the Designating Party or its counsel may otherwise agree in
17 writing, or as the Court may otherwise order, all Discovery Material marked or
18 otherwise identified as “Confidential Information” or “Highly Confidential Information -
19 Attorneys’ Eyes Only” and received by any Receiving Party pursuant to this Protective
20 Order: (a) shall be disclosed only to such persons and in such manner as set forth in this
21 Protective Order; (b) shall be used solely for the purposes of the prosecution or defense
22 of this Action (including any appeals) and no other; and (c) shall not be used by the
23 Receiving Party for any other purposes, including, without limitation, any business or
24 commercial purpose. The prohibitions on the use of Confidential Information and
25 Highly Confidential Information as set forth in this Protective Order shall survive the
26 termination of this Action.

27 9. Counsel for a Receiving Party may disclose or make available any
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1 Discovery Material designated as “Confidential Information” and/or any information
2 derived from such Discovery Material only to the following persons:

3 a. Counsel to the Parties in this Action (outside counsel of record in
4 this Action, and in-house counsel, including members of the outside counsel firms,
5 associate attorneys, contract attorneys, paralegals, secretarial staff, clerical and other
6 regular or temporary employees), and consultants and vendors of such Counsel to the
7 Parties (including trial consultants, jury consultants, and service vendors such as outside
8 copying services, outside litigation support services, translation services or graphics,
9 design, or document handling services/consultants retained in connection with this
10 Action for purposes of preparing demonstrative or other exhibits for deposition, motion
11 practice, trial, or other court proceedings and excluding consulting or testifying subject-
12 matter experts) (“Consultants and Vendors”), provided that no Discovery Material
13 designated as “Confidential Information” shall be disclosed to any Consultants and
14 Vendors or temporary employee of Counsel to the Parties unless and until such person
15 has executed a Declaration of Compliance substantially in the form attached to this
16 Protective Order as Exhibit A;

17 b. The Parties, including directors or employees of the Parties, to the
18 extent reasonably necessary in the prosecution or defense of this Action;

19 c. Trial witnesses and deponents (“Witnesses”), and their counsel,
20 during the course of and, only to the extent necessary, in preparation for and in the
21 course of depositions or testimony in this Action, subject to the provisions of Paragraph
22 11 below;

23 d. Retained experts and expert consultants assisting counsel for the
24 Parties in this Action, and only to the extent necessary for the expert or expert consultant
25 to prepare a written opinion, to prepare to testify, or to assist counsel in the prosecution
26 or defense of this Action, subject to the provisions of Paragraph 13 below;

1 e. The Court and its staff and administrative personnel, and Court
2 reporters, videographers and stenographers employed to take depositions, and any
3 essential personnel retained by the Court; and

4 f. Any other person only upon order of the Court or upon stipulation
5 of the Designating Party.

6 10. Counsel for a Receiving Party may disclose or make available any
7 Discovery Material designated as “Highly Confidential Information – Attorneys’ Eyes
8 Only” and/or any information derived from such Discovery Material only to the
9 following persons:

10 a. Counsel to the Parties in this Action (outside counsel of record in
11 this Action, including members of such outside counsel firms, associate attorneys,
12 contract attorneys, paralegals, secretarial staff, clerical and other regular or temporary
13 employees), and Consultants and Vendors of such outside counsel to the Parties,
14 provided that no Discovery Material designated as “Highly Confidential Information –
15 Attorneys’ Eyes Only” shall be disclosed to any Consultants and Vendors or temporary
16 employee of Counsel to the Parties unless and until such person has executed a
17 Declaration of Compliance substantially in the form attached to this Protective Order as
18 Exhibit A;
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20 b. From each Party, four (4) in-house counsel who are employed by
21 the legal department for a Party and who are not substantially involved in competitive
22 decisionmaking for the Party, as well as designated in-house counsels’ necessary
23 secretarial, clerical, administrative or support staff, provided that such staff are not
24 substantially involved in competitive decisionmaking for the Party.¹ Either Party may
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26 ¹ To avoid doubt, “competitive decisionmaking” is used as a term of
27 art referencing a body of case law on protective orders. *See Brown Bag Software v.*
28 *Symantec Corp.*, 960 F.2d 1465, 1470 (9th Cir. 1992) (defining “competitive
decisionmaking” to mean “advising on decisions about pricing or design ‘made in light of
similar or corresponding information about a competitor’”). The parties’ chief legal

1 change the in-house counsel so designated by proposing such a designation or change in
2 writing to (i) all counsel of record in this action, including providing a detailed
3 description of the proposed designee's present and past roles and responsibilities as an
4 employee of the Party over the prior five (5) years, and (ii) counsel of record for all
5 third-parties, if any, that have produced documents or materials designated as "Highly
6 Confidential Information – Attorneys' Eyes Only" pursuant to this Protective Order.
7 Consent to such proposed amendment will be deemed given by the other parties
8 (including third parties) if objection is not made within ten (10) business days;

9 c. The author of the Discovery Material or the original source of the
10 entirety of the information contained therein, and any individuals who are recipients
11 thereof;

12 d. Witnesses and their counsel, during the course of and, only to the
13 extent necessary, in preparation for and in the course of depositions or testimony in this
14 Action, subject to the provisions of Paragraph 11 below, and only if either (1) that
15 Witness had previously received or seen, independent of this Action, the specific
16 documents or materials designated as "Highly Confidential Information – Attorneys'
17 Eyes Only"; or (2), except for individuals who are present employees of the Party or
18 non-party that produced the Discovery Material, that Witness has executed a Declaration
19 of Compliance substantially in the form attached to this Protective Order as Exhibit A
20 acknowledging that the deponent will treat documents designated "Highly Confidential
21 Information – Attorneys Eyes Only" in accordance with the Protective Order and that the
22 Witness agrees to be bound by the terms of this Protective Order, or the Witness shall
23 agree on the record to be bound by the terms of this Protective Order and the Declaration
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26 officers are deemed to be involved with "competitive decisionmaking" for purposes of
27 this Protective Order. However, the parties recognize that this case involves merits issues
28 concerning "competition." The parties' stipulation to this Protective Order's provisions
concerning "competitive decisionmaking" has no bearing on any merits issue regarding
competition, and will not be used by either party on any merits issues.

1 of Compliance attached hereto as Exhibit A. If a Witness does not satisfy either (1) or
2 (2) above, the deposition may cease and the parties may seek an appropriate ruling from
3 the Court, or the parties may continue with the deposition with respect to other matters
4 and seek a ruling from the Court after the deposition is concluded and reopen the
5 deposition to implement the Court's ruling;

6 e. Retained experts and expert consultants assisting counsel for the
7 Parties in this Action, and only to the extent necessary for the expert or expert consultant
8 to prepare a written opinion, to prepare to testify, or to assist counsel in the prosecution
9 or defense of this Action, subject to the provisions of Paragraphs 12 and 13 below;

10 f. The Court and its staff and administrative personnel, and Court
11 reporters, videographers and stenographers employed to take depositions, and any
12 essential personnel retained by the Court; and

13 g. Any other person only upon order of the Court or upon stipulation
14 of the Designating Party.

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16 11. Counsel for any Party to this litigation or counsel for the Witness may
17 exclude from the room during any deposition any person who is not entitled under the
18 provisions of Paragraph 9 or 10 to receive or review "Confidential Information" or
19 "Highly Confidential Information - Attorneys Eyes' Only" Discovery Material during
20 the time that such information is being disclosed or discussed in the deposition.

21 a. No Witness may be shown or examined on any "Confidential
22 Information" or "Highly Confidential Information - Attorneys' Eyes Only" Discovery
23 Material unless he or she is entitled to receive or review such material under the
24 provisions of Paragraph 9 or 10, or unless otherwise agreed by counsel for the
25 Designating Party for the Discovery Material at issue. In the event that counsel for the
26 Designating Party of the Discovery Material that has been designated as "Confidential
27 Information" or "Highly Confidential Information - Attorneys' Eyes Only" agrees that
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1 the Witness may be shown or examined on any such “Confidential Information” or
2 “Highly Confidential Information – Attorneys’ Eyes Only” Discovery Materials, the
3 Witness must first be advised of the confidential nature of the Discovery Material, and
4 be informed that any unauthorized disclosure of the information contained in the
5 Discovery Material may constitute a contempt of this Court.

6 b. At the deposition of any third party at which “Confidential” or
7 “Highly Confidential – Attorneys Eyes Only” material will be used as an exhibit, the
8 third-party deponent must be asked to execute a Declaration of Compliance
9 substantially in the form attached to this Protective Order as Exhibit A. If before
10 testifying the third-party deponent refuses to sign the Declaration of Compliance
11 Counsel for the Party seeking to depose the third party shall (i) provide the third-party
12 deponent a copy of this Protective Order; (ii) state on the record that the Discovery
13 Material about which the third-party deponent is to be questioned is subject to the terms
14 of this Protective Order; and (iii) inform the third-party deponent on the record that
15 unauthorized disclosure of the information contained in the Discovery Material may
16 constitute a contempt of this Court.

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18 12. “Confidential Information” or “Highly Confidential Information –
19 Attorneys’ Eyes Only” Discovery Material may be provided to retained experts and/or
20 expert consultants assisting counsel for the Parties in this Action (excluding
21 Consultants and Vendors), and only to the extent necessary for the expert or expert
22 consultant to prepare a written opinion, to prepare to testify, or to assist counsel in the
23 prosecution or defense of this Action, provided that such expert or expert consultant:
24 (i) is not currently a partner, director, officer, or employee of a landline utility,
25 distributed solar company, utility-scale solar provider, battery-technology developer or
26 provider, or solar panel developer or manufacturer; (ii) is not currently an employee or
27 elected official of any public utilities commission or other electricity regulator; (iii) is
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1 using said “Confidential Information” or “Highly Confidential Information - Attorneys’
2 Eyes Only” Discovery Material solely in connection with this Action; and (iv) signs a
3 Declaration of Compliance in the form attached to this Protective Order as Exhibit A.
4 Counsel for the Party using the expert or expert consultant shall be responsible for
5 obtaining the signed undertaking and retaining the original, executed copy.

6 13. At least five (5) business days before providing an expert or expert
7 consultant for the first time with any information that has been designated as
8 “Confidential Information” or “Highly Confidential Information – Attorneys’ Eyes
9 Only” by the opposing Party, Counsel must first identify the expert in writing to
10 opposing counsel. This written identification need not specify the information the
11 expert will be provided but shall include a current resume or curriculum vitae, and shall
12 be served by electronic mail. Should the opposing Party object to the disclosure of its
13 “Confidential Information” or “Highly Confidential Information – Attorneys’ Eyes
14 Only” to the designated expert or expert consultant, it shall provide written notice
15 within five (5) business days. Such objection may only be made on the grounds that the
16 objecting Party faces a substantial likelihood of significant prejudice because the
17 designated expert or expert consultant’s current employment creates a substantial
18 likelihood that the information will result in inevitable disclosure to the detriment of the
19 objecting Party. The objecting Party shall meet and confer with the Party identifying
20 the expert on that objection within two (2) business days of the written objection being
21 served on counsel. If the meet and confer does not resolve the dispute, the Parties agree
22 to seek the Court’s intervention pursuant to page 6 of the Court’s March 19, 2015 Order
23 (Doc. 24). Further, upon service of a written objection to an expert or expert consultant
24 pursuant to this Paragraph 13, no information designated as “Confidential Information”
25 or “Highly Confidential Information – Attorneys’ Eyes Only” by the objecting Party
26 may be disclosed to the expert or expert consultant subject to objection unless and until
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1 the Court has ruled on the objection. In the event an objection under this paragraph is
2 sustained, the Parties will work in good faith so that the non-objecting Party may
3 identify an alternative expert or expert consultant, including by not opposing reasonable
4 requests to modify outstanding deadlines in order to avoid prejudice to the non-
5 objecting Party.

6 14. This Protective Order has no effect upon, and shall not apply to, the
7 Designating Parties' use of their own Confidential Information or Highly Confidential
8 Information for any purpose. Nothing in this Protective Order shall: (i) prevent a
9 Designating Party from disclosing its own "Confidential Information" or "Highly
10 Confidential Information - Attorneys' Eyes Only" Discovery Material to officers,
11 directors, employees, agents, or advisors, including investment bankers and
12 accountants, of the Designating Party; or (ii) impose any restrictions on the use or
13 disclosure by a Designating Party of documents, materials, or information designated
14 "Confidential Information" or "Highly Confidential Information - Attorneys' Eyes
15 Only" if such documents, materials, or information were both lawfully obtained by and
16 lawfully retained in the possession of such Designating Party independently of the
17 discovery proceedings in this Action.
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19 15. Nothing in this Order shall be construed as automatically permitting a
20 party to file under seal. Before any party files any document under seal, such party
21 shall seek leave of Court and shall show compelling reasons (dispositive motions) and
22 good cause (non-dispositive motions) for filing under seal. *See Kamakana v. City &*
23 *Cnty. Of Honolulu*, 447 F.3d 1172, 1178-80 (9th Cir. 2006). Additionally, such party
24 shall seeking to file under seal shall, within the applicable deadline, file a redacted,
25 unsealed version of any motion, response, or reply if such party is waiting for a ruling
26 from the Court on filing an unredacted, sealed version of the same document.

27 16. The inadvertent production of any Discovery Material shall be without
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1 prejudice to any claim that such Discovery Material is privileged or protected from
2 discovery as work-product or by reason of any other applicable privilege or immunity,
3 including without limitation the attorney-client privilege, and no Party or non-party
4 shall be held to have waived any otherwise applicable privilege or protection by such
5 inadvertent production. If the claim of inadvertent production is made pursuant to this
6 Paragraph with respect to information then in the custody of another Party or non-party,
7 except as provided by Fed. R. Civ. P. 26(b)(5)(B), such Party or non-party shall
8 promptly return to the claiming Party or non-party that material as to which the claim of
9 inadvertent production has been made and all copies thereof, and the receiving Party or
10 non-party shall not use such information for any purpose. Where the Designating and
11 Receiving Parties agree in writing with regard to particular requested materials, a
12 Designating Party may provide those requested materials for initial examination by the
13 Receiving Party in connection with the Action without waiving any privilege or
14 protection in this case or any other Federal or State proceeding.

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16 17. Unless a prompt challenge to a Designating Party's confidentiality
17 designation is necessary to avoid foreseeable substantial unfairness, unnecessary
18 economic burdens, or a later significant disruption or delay of the litigation, a
19 Receiving Party does not waive its right to challenge a confidentiality designation by
20 electing not to mount a challenge promptly after the Designating Party discloses the
21 designation.

22 a. A Receiving Party that elects to initiate a challenge to a Designating
23 Party's confidentiality designation must do so in good faith and must begin the process
24 by having its counsel confer directly with counsel for the Designating Party. In
25 conferring, the challenging Receiving Party must explain the basis for its belief that the
26 confidentiality designation was not proper and must give the Designating Party an
27 opportunity to review the designated material, to reconsider the circumstances, and, if no
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1 change in designation is offered, to explain the basis for the chosen designation. The
2 Designating Party shall respond within 48 hours. A challenging Receiving Party may
3 proceed to the next stage of the challenge process only if it first has engaged in this meet
4 and confer process.

5 b. Challenges to confidentiality designations that cannot be resolved
6 through the meet and confer process set forth in Paragraph 17(a) shall be brought to the
7 Court's attention pursuant to page 6 of the Court's March 19, 2015 Order (Doc. 24).

8 c. The burden of proof in any such challenge proceeding shall be on
9 the Designating Party. Until the Court rules on the challenge, all parties shall continue
10 to afford the material in question the level of protection to which it is entitled under the
11 Designating Party's designation. This provision applies only to challenge proceedings,
12 and shall not be construed to affect the burden of proof for a motion to seal.

13 18. Entering into, agreeing to, producing, or receiving "Confidential
14 Information" or "Highly Confidential Information - Attorneys' Eyes Only" Discovery
15 Material pursuant to, and/or otherwise complying with the terms of, this Protective
16 Order, or the taking of any action pursuant to this Protective Order shall not:

17 a. Constitute or operate as an admission by any Designating or
18 Receiving Party that any particular document, material, testimony, or thing does or does
19 not contain, reflect, or constitute a trade secret or any other type of Confidential
20 Information or Highly Confidential Information;

21 b. Prejudice in any way the rights of any Designating or Receiving
22 Party to object to the production of documents it considers not subject to discovery, or
23 operate as an admission by any Designating or Receiving Party that the restrictions and
24 procedures set forth in this Protective Order constitute adequate protection for any
25 particular information deemed by any Designating Party to be Confidential Information
26 or Highly Confidential Information – Attorneys' Eyes Only;
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1 c. Prejudice in any way the rights of any Designating or Receiving
2 Party to object to the relevancy, authenticity, or admissibility into evidence of any
3 document, material, testimony, or thing subject to this Protective Order, or otherwise
4 constitute or operate as an admission by any Designating or Receiving Party that any
5 particular document, material, testimony, or thing is or is not relevant, authentic, or
6 admissible into evidence at any deposition, at trial, or in a hearing;

7 d. Prejudice in any way the rights of a Designating or Receiving Party
8 to seek a determination by the Court whether any Discovery Material should be subject
9 to the terms of this Protective Order;

10 e. Prejudice in any way the rights of a Designating Party to petition
11 the Court for a further protective order relating to any purportedly Confidential
12 Information or Highly Confidential Information;

13 f. Prejudice in any way the rights of a Designating or Receiving Party
14 to oppose another Party's or non-party's motion to seal; and/or
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16 g. Prevent the Parties to this Protective Order from agreeing, in
17 writing, to alter or waive the provisions or protections of this Protective Order with
18 respect to any particular Discovery Material for which one or both of them are the
19 Designating Parties;

20 h. Restrict the Parties in connection with issuing public records
21 requests pursuant to Arizona law or making any use of materials provided in response to
22 such requests.

23 19. In the event additional persons or entities become Parties to this Action,
24 none of such Parties' counsel, experts or expert consultants retained to assist said
25 counsel, shall have access to Confidential Information or Highly Confidential
26 Information produced by or obtained from any Designating Party until said Party has
27 executed and filed with the Court its agreement to be fully bound by this Protective
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1 Order. No “Confidential Information” or “Highly Confidential Information - Attorneys’
2 Eyes Only” Discovery Material may be provided to such Parties’ counsel, experts or
3 expert consultants unless and until such person has executed a Declaration of
4 Compliance substantially in the form attached to this Protective Order as Exhibit A, and
5 such Declaration of Compliance has been served on counsel for all parties.

6 20. It is the present intention of the Parties that the provisions of this
7 Protective Order shall govern discovery in this Action, but each of the Parties to this
8 Protective Order shall be entitled to seek modification of this Protective Order, or relief
9 from it, by application to the Court on notice to the other Parties here.

10 21. The provisions of this Protective Order shall, absent written permission of
11 the Designating Party or further order of the Court, continue to be binding throughout
12 and after the conclusion of this Action, including without limitation any appeals in this
13 Action. Within sixty (60) days after receiving notice of the entry of an order, judgment,
14 or decree finally disposing of this Action, including the exhaustion of all permissible
15 appeals, all persons and entities having received “Confidential Information” or “Highly
16 Confidential Information - Attorneys’ Eyes Only” Discovery Material, shall either make
17 a good faith effort to return such material and all copies thereof (including summaries
18 and excerpts) to counsel for the Designating Party or destroy all such “Confidential
19 Information” or “Highly Confidential Information - Attorneys’ Eyes Only” Discovery
20 Material and copies thereof (including summaries and excerpts) and certify that fact to
21 counsel for the Designating Party. Outside counsel for the Parties shall be entitled to
22 retain all filings, court papers, deposition and trial transcripts and videos, deposition and
23 trial exhibits, and attorney work product (regardless of whether such materials contain or
24 reference Discovery Materials designated as “Confidential Information” or “Highly
25 Confidential Information - Attorneys’ Eyes Only” by any Designating Party), provided
26 that such outside counsel, and employees and agents of such outside counsel, shall not
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1 disclose any Confidential Information or Highly Confidential Information contained or
2 referenced in such materials to any person except pursuant to court order or agreement
3 with the Designating Party. All materials, if any, returned to the Parties or their counsel
4 by the Court likewise shall be disposed of in accordance with this Paragraph. This Court
5 shall have continuing jurisdiction to enforce the terms of this Protective Order, including
6 without limitation during any appeals in this Action.

7 22. If any Receiving Party is: (a) subpoenaed in or (b) served with a demand
8 in another proceeding to which he, she or it is a party, or (c) served with any other legal
9 process by one not a party to this Action seeking Discovery Material that was produced
10 or designated as "Confidential Information" or "Highly Confidential Information -
11 Attorneys' Eyes Only" by someone other than the Receiving Party, the Receiving Party
12 shall give actual written notice, by email transmission, within five (5) business days of
13 receipt of such subpoena, demand, or legal process, to the Designating Party. The
14 Receiving Party shall not produce any of the Designating Party's "Confidential
15 Information" or "Highly Confidential Information - Attorneys' Eyes Only" Discovery
16 Material, until the Designating Party gives notice to the Receiving Party that the
17 Designating Party consents to production, or opposes production of its "Confidential
18 Information" or "Highly Confidential Information - Attorneys' Eyes Only" Discovery
19 Material, and has had a reasonable opportunity to object to the production. The
20 Designating Party shall be solely responsible for asserting any objection to the requested
21 production. Nothing in this Paragraph shall be construed as requiring the Receiving
22 Party or anyone else covered by this Protective Order to challenge or appeal any order
23 requiring production of "Confidential Information" or "Highly Confidential Information
24 - Attorneys' Eyes Only" Discovery Material covered by this Protective Order, or to
25 subject such person to any penalties for non-compliance with any legal process or order,
26 or to seek any relief from this or any Court. The foregoing shall not apply to requests for
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1 information from law enforcement that are required to be kept confidential.

2 23. Any Designating or Receiving Party seeking enforcement of this
3 Protective Order against any other Designating or Receiving Party may petition the
4 Court by properly noticed motion, pursuant to this Court's rules, including a concise
5 statement of the specific relief sought.

6 24. Violation by any person of any term of this Protective Order shall be
7 punishable as a contempt of court. No provision of this Protective Order shall require
8 any person, corporation, or other entity not a Party to this Action to respond to any
9 discovery request, except as may otherwise be required by law.

10 Dated this 25th day of June, 2015.

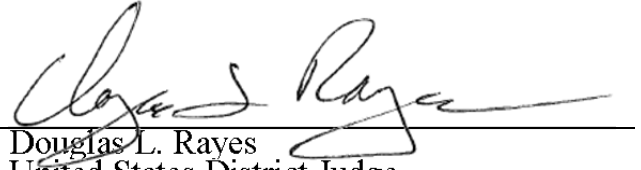
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16 Douglas L. Rayes
17 United States District Judge
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Exhibit A

DECLARATION OF COMPLIANCE

I, _____ [print or type full name], of
_____ [print or type full address],
declare under penalty of perjury that I have read in its entirety and understand the
Stipulated Protective Order that was issued by the United States District Court for the
District of Arizona on _____ [date] in the case of *SolarCity Corporation v. Salt
River Project Agricultural Improvement and Power District, et al.*, Case No. 2:15-CV-
00374-DLR (the “Order”).

I agree to comply with and to be bound by all the terms of the Order and I
understand and acknowledge that failure to so comply could expose me to sanctions and
punishment in the nature of contempt. I solemnly promise that I will not disclose in any
manner any information or item that is subject the Order to any person or entity except in
strict compliance with the provisions of the Order.

I further agree to submit to the jurisdiction of the United States District Court for
the District of Arizona for the purpose of enforcing the terms of the Order, even if such
enforcement proceedings occur after termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____